



# **PRACTICAL CHECKLIST: THE RIGHTS OF UFMs**

**Unaccompanied foreign minors**

## >> When is a young person considered to be an UFM?

An Unaccompanied Foreign Minor (UFM) is a young person of foreign nationality who arrives in Belgium without their parents or legal representatives.

Article 5 of the Belgian Guardianship Act defines an UFM as any person who is:

- under the age of eighteen,
- not accompanied by a person exercising parental authority or guardianship.

IF the person is a national of a **country that is not part** of the European Economic Area (EEA), then they must be in one of the following situations:

- either have requested refugee status,
- or not meet the conditions of access to the territory and residence determined by the laws governing access to the territory, residence, settlement and removal of foreigners.

IF the person is a national of a **member country** of the European Economic Area (EEA) or Switzerland, then they must:

1. Not be in the possession of legal documents proving that the person exercising parental authority/guardianship has authorized the minor to travel to Belgium.
2. And be in one of the following situations:
  - either have applied for residence in Belgium on the basis of human trafficking;
  - or be in a highly vulnerable situation.

A highly vulnerable situation means they have been exposed to human trafficking and various forms of exploitation (sexual or economic).

## >> Do UFM's receive specific care in Belgium?

Persons who have been separated from their parents and do not have access to educational and material support are entitled to the following:

- shelter in special accommodation
- social protection
- legal assistance
- psychological help

Minors are usually reported to the Guardianship service by the police or the Immigration Office. Most of them arrive in Belgium without any identity or residence documents.

The Guardianship service identifies them and, in case of doubt concerning their age, organizes a medical test.

To provide care to these minors, the Guardianship service contacts the shelters and assigns them a guardian.

## >> How is the reception of UFM's organised?

The reception of unaccompanied foreign minors is organized in two phases and by several authorities.

### **1<sup>st</sup> reception phase**

The Federal Agency for the Reception of Asylum Seekers (Fedasil) is the competent federal authority for the initial reception and orientation of unaccompanied foreign minors.

Regardless of whether they are seeking asylum, these minors are first placed in one of the two Fedasil observation and orientation centres, located in Neder-over-Hembeek and Steenokkerzeel.

In principle, they will only stay in these centres for a maximum of 30 days:

- During the first fifteen days, the minor's identity is established and a guardian is appointed;
- The guardian can then have an additional 15 days to ensure that a suitable accommodation solution is found by the competent reception authorities (Fedasil), the Youth Aid Service of the Communities, in the French community, in the Flemish community.

## 2<sup>nd</sup> reception phase

In a second phase, Fedasil remains competent for housing the minor and will direct them to one of the structures for unaccompanied foreign minors managed by Fedasil or its partners:

- A federal reception centre
- A Red Cross centre
- or a Local Reception Initiative (ILA) managed by the CPAS/OCMW
- If the minor is not an asylum seeker, Fedasil will direct them to a centre managed by the Communities

If the guardian believes that it would be in the best interest of the minor to be placed with a family member (uncle, aunt, brother, etc.) or with friends, the guardian may propose this solution to Fedasil, the partner or the competent community. The guardian will then take the necessary steps to make this happen.

Guardians are not allowed to house a minor in their home.

For more information, see [www.fedasil.be/fr/home/minors](http://www.fedasil.be/fr/home/minors)

## >> What social assistance is available for UFM's?

Unaccompanied Foreign Minors may be entitled to social assistance. The type of assistance varies according to their residence status:

For minors seeking asylum	The minor is entitled to material assistance in a reception centre. If no spaces are available in the centres and in the event of family reunification, they can ask for financial assistance from the CPAS/OCMW in their place of residence.
For minors recognized as refugees	Financial assistance from the CPAS/OCMW is granted for their place of residence.
For minors who have obtained subsidiary protection status	Financial assistance is provided for one year. This assistance can be renewed if the subsidiary protection status is extended.
For minors who are not asylum seekers	Material assistance is granted through the centres that house these minors.

## >> Can UFM's go to school?

Yes. Regardless of whether they are residing in the Wallonia-Brussels Federation or in the Flemish Community, all children, regardless of their administrative status or residence documents, have access to education. The Wallonia-Brussels Federation, like the Flemish

Community, has adopted specific provisions for newcomer pupils. Specific classes called "passerelles" are provided for minors who don't speak French/Dutch and/or who are illiterate.

### >> Do UFM's have the right to register with a mutual insurance company?

UFMs who do not (yet) have a residence permit of more than 3 months can join a mutual insurance company free of charge provided that:

- They have been enrolled in primary or secondary education in a school recognized by the Belgian State for at least 3 consecutive months.
- They are exempt from compulsory education.
- They are monitored by the "Office de la Naissance et de l'Enfance" (ONE - Wallonia-Brussels Federation) or "Kind en Gezin" (Flanders).

If one of these conditions is not met, UFMs who have been granted refugee or subsidiary protection status or another right of residence for more than 3 months can join a mutual insurance company on the basis of their residence document (A or B card). The guardian has to approve all applications for membership to a mutual insurance company. Proof that a guardian has been appointed and proof of school enrolment OR proof of exemption from compulsory education OR certification from ONE or Kind en Gezin must be submitted.

UFMs who are not (yet) entitled to join a mutual insurance company but who are registered with the Immigration Office are entitled to medical care. The cost of this medical care will be borne by Fedasil.

For more information on this subject, contact the Fedasil Medical Expenses Unit (02/213 43 00 or [medic@fedasil.be](mailto:medic@fedasil.be)). You can find more information about the right to a mutual insurance company at <http://www.medimmigrant.be>.

### >> Do UFM's have access to family allowances?

Any minor who lives with an extended family member, in a foster family or who is a parent may be eligible for family allowances under certain conditions. There are various support schemes available to UFMs: family allowances, guaranteed family benefits or equivalent social assistance from the CPAS/OCMW.

These schemes come with different conditions. They are residual, i.e. they apply "in cascade": if the first scheme is refused, you need to apply for the second and finally the last one.

Checking the conditions for family allowances is the first step. If these conditions are met and the family allowance is not granted or the conditions are not met, then you should apply for guaranteed family benefits. As a last recourse, equivalent social assistance from the CPAS/OCMW must be applied for.

More information: <http://www.mineursenexil.be/files/Image/mena-Cadre-juridique/AllocfamMENA2018.pdf>

### >> Can UFM's get a student job?

UFMs are allowed to sign a contract for a student job under the following conditions:

- With or without their guardian's permission;
- From the age of 16 (or from the age of 15 if the first two years of secondary education have been completed);
- Regular student in secondary education (whether general, technical, vocational or artistic), higher education, university, preparing for a central jury, etc.);
- Since 1 July 2017, students in work experience programmes or training have student status (valid in the Wallonia-Brussels Federation). They can therefore get a job in that capacity.

More information [www.jeunes-csc.be](http://www.jeunes-csc.be)

### >> Is a work permit required?

Young people who receive assistance from CPAS/OCMW may be required to have a job. This may be a student job during the school holidays or during the academic year. The young person is allowed to earn the following amounts in addition to their financial aid. If they earn more, it will be deducted from their financial aid.

### >> For all other questions

Do I need to have a contract with my employer? What should the contract include? Can I break the contract? What happens if I get a permanent contract after my student job? What constitutes a student job? Can I work in a student job?

For all these questions, we invite you to contact Jeunes CSC or consult the websites [www.jeunes-csc.be](http://www.jeunes-csc.be) or [www.jobetudiant.be](http://www.jobetudiant.be).

**>> More information from Migrants ACV-CSC staff**

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**CSC Mons-La Louvière**

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065 37 25 57

**CSC Namur-Dinant**

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**CSC Hainaut Occidental**

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**CSC Liège-Verviers-Ostbelgien**

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**CSC Luxembourg**

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Are you a student?

Have you found a job?

Join **ENTER** now for free if you are under 30 years old and have no income (wages from a student job are not considered income).

This membership grants you access to all the services of Jeunes CSC (student job, end of studies, etc.) and free legal protection!

After registering at **ENTER** you will receive the quarterly News 4 Youth newsletter.

It is totally free.